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| GREENBERG TRAURIG, LLP | | | HOLLOWAY III, EDWIN C | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | |
|------------------------------|------------------------|---------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/665,642 | HUANG ET AL. |
| | Examiner | Art Unit |
| | Edwin C. Holloway, III | 2612 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 14 November 2007.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 68-109 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 72-81 is/are allowed.
- 6) Claim(s) 68-71 and 82-109 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| | 6) <input type="checkbox"/> Other: _____. |

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DETAILED ACTION

1. Applicant's submission filed on 11-14-07 has been entered. No amendments have bee submitted with the current response. The examiner has considered the applicant's arguments in view of the disclosure and the present state of the prior art. And it is the examiner's opinion that the claims are unpatentable for the reasons set forth in this Office action:

Specification

2. Applicant is reminded that specification should again be updated to include the current status and patent numbers for any listed applications that are issued or abandoned.

Priority

3. Applicant's claim for the benefit of a prior-filed application under 35 U.S.C. 119(e) or under 35 U.S.C. 120, 121, or 365(c) is acknowledged. Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 120 as follows:

The later-filed application must be an application for a patent for an invention that is also disclosed in the prior application (the parent or original nonprovisional application or provisional application). The disclosure of the invention in the parent application and in the later-filed application must be sufficient to comply with the requirements of the first

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paragraph of 35 U.S.C. 112. See *Transco Products, Inc. v. Performance Contracting, Inc.*, 38 F.3d 551, 32 USPQ2d 1077 (Fed. Cir. 1994).

The disclosure of the following prior-filed applications fails to provide adequate support or enablement in the manner provided by the first paragraph of 35 U.S.C. 112 for one or more claims of this application:

- Application No. 10/151,635, filed 20 May 2002, which is (1) a CIP of 09/615,473, filed 13 July 2002; (2) CIP of 09/334,584, filed 16 July 1999 (now US 6,781,518), which is a CIP of 09/121,229, filed 23 July 1998 (now US 6,157,319); and (3) a CIP of 09/905,423, filed 13 July 2001, which claims benefit of 60/264,767, filed on 29 January 2001.
- Application No. 10/288,727, which claims benefit of 60/344,020, filed 20 December 2001, and 60/334,774, filed 20 November 2001.

These applications (10/151,635, 09/615,473, 09/334,584, 09/121,229, 09/905,423, and 10/288,727 all fail to provide adequate support a radio frequency identification (RFID) tag and reading system as claimed in claims 68-81, 84-92 and 95-109 discussed on pages 11-18, 26-31, and 36 of the current specification as filed. Further, although the 10151635 application included manufacturer information, the other claimed applications fail to provide adequate support for the machine readable tag storing standardized information that functions to identify at least the appliance and manufacturer of the

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appliance in claims 82-109. Consequently, in the prosecution of this application, the priority date of the subject matter in claims 82-83 and 93-94 is established to be the filing date of the 10151635 application (20 May 2002), and for the subject matter of all other claims is established to be the filing date of the instant application (i.e., 19 September 2003).

Claim Rejections - 35 USC § 103

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 68-71 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stefanik US006750801B2) in combination with Kaario (US 2005/0242167) and Nickum (US006359661B1).

Regarding claim 68, Stefanik discloses a method of configuring an appliance including receiving data directly from a smartcard via the receiver of a universal remote control the data user profile, parental controls, visual settings or any other information individualized to the user or unique to the individual in col. 6 lines 54-62. The information is forwarded form the remote control by transmitter 86 to receiver 144 of appliance or consumer electronic device 140 in fig. 4 and col. 7 lines 10-24. The appliance is programmed to be configured in response to this information in col. 5 lines 24-41. Stefanik differs from the claims by not specifying the smartcard is an

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RFID tag and not specifying preferences mapped within memory of the appliance in accordance with the individual represented by the RFID.

Kaario discloses an analogous art method of configuring an appliance using an RFID token or tag. See the abstract. Par. 0043 and 0066 state that ID data may be stored on an RFID tag/transponder, or smart card, or other media. The appliance includes memory 235 that maps preferences to the appliance based on the individual identified by the RFID/smartcard. See par. 0036 and 0041.

Nickum discloses an analogous art system and method for creating, maintaining and activating a user customizable profile by inputting an ID via a remote controller. The profile may be stored in the remote or stored in the appliance, such as a TV, and selected by the ID. The ID may be stored in the remote or input by the user, and may provide access restriction such as channel blocking. See the abstract col. 4 line 32 col. 5 line 65 and col. 8 lines 34-46.

Regarding claim 68, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the method of Stefanik to have included the identifying information on a RFID as disclosed in Kaario because Kaario discloses RFID and smart card as obvious alternatives for

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appliance configuration and Stefanik suggest contactless reading in col. 6 lines 50-53. Alternatively, it would have been obvious to have included the in Kaario the reader on the universal remote 210 to forward the information to the appliance as disclosed by Stefanik in view of Kaario teaching the storing the RFID data on other devices. Further, storing within memory of the appliance one or more preferences mapped to an individual represented by the RFID would have been obvious in view of the memory in the appliance of Kaario for storing electronic program guide (EPG) information and Nickum disclosing user profile related to channel selection and other TV programming selected by user ID and stored on the appliance as an alternative to storage on the remote control and suggested by Stefanik also being directed to configuration of EPG events and other settings. Although Kaario discloses URL or IP address identifying the location of data on a network, it would have been obvious to have stored the data on the appliance in view of par. 39 line 5 of Kaario disclosing that data can be stored locally or remotely and par. 0063-0064 of Kaario disclosing uploading or moving of profiles from the appliance to a server or another appliance, thus storing one or more profile on an appliance.

Regarding claim 69, limited access would have been obvious

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in view of the parental controls, pay-per-view purchase and spending limits in col. 6 lines 54-63 of Stefanik.

Regarding claim 70, accessing content would have been obvious in view of the user history, favorite shows, favorite channels,... in col. 6 lines 54-63 of Stefanik.

Regarding claim 71, command transmission would have been obvious in view of forwarding the read data by remote control signal in col. 7 lines 17-24 and/or the parental control and visual settings in col. 6 lines 54-63 of Stefanik.

6. Claims 82-86, 93-97 and 108-109 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yang (US 6,133,847) in view of Kitao (US006124804A) and [Sarma (The Networked Physical World) or Brock (The Electronic Product Code)].

Referring to claims 82 and 93, Yang teaches a configurable remote control device 100 having a memory 120 that stores programming code for controlling a plurality of appliances 160, such as VCR 200 and TV 220 (see Figs. 1-3B; Col. 3, lines 50-56; Col. 4, lines 39-46; and Col. 8, lines 32-44). As shown in Figs. 1-3B, Yang's remote control device 100 communicates bi-directionally with appliance 160 via data link 150, which is a radio frequency (RF) signal (see Col. 3, lines 19-24 and 66-67; Col. 4, lines 1-5; and Col. 8, lines 10-24). As shown in Fig.

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4, Yang's method for setting up remote control device 100, which includes processor 135 and instructions for setting up remote control device 100 upon receiving an appliance 160's interface control signal (see Col. 4, lines 6-14), comprises (a) receiving an interface control signal, which is an identification signal, from a plurality of appliances 160 via remote control device 100's receiver 112 at step 410 (see Fig. 1; Col. 3, lines 25-29 and 50-65; Col. 7, lines 22-26; and Col. 8, lines 10-17 and 54-59); and (b) using the interface control signal received from each appliance 160 to cause select commands to be mapped to select command keys at steps 415 and 420, whereby remote control device 100 is set up such that activation of one or more of the select command keys causes remote control device 100 to issue via its transmitter 114 one or more of the select commands to command operation of an appliance 160 that has been associated with the interface control signal at step 425 (see Figs. 2A, 2B, 3A, and 3B; Col. 4, lines 6-31 and 52-67; Col. 5, lines 1-32 and 48-67; Col. 6, lines 1-58; and Col. 7, lines 26-34). Yang discloses a separate transmitter 114 and receiver 112 that may be of different medium (IR vs. RF) but uses the transmitter for remote control signals (col. 3 lines 7-46). Yang, however, fails to teach that the interface control signal is received from a machine readable tag storing standardized information

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that functions to identify at least the appliance and vendor of the appliance.

In analogous art, Kitao discloses a method and configuring a remote controller. The remote controller sends a trigger signal and the appliance that replies with a identifying device code stored in memory 117. The device code includes information identifying the manufacturer name and the appliance (such as category, version, lot number). This information is used to configure the controller. See col. 3 lines 15-33 and col. 4 lines 33-67. The controller may include a trigger transmitter 301 separate from the remote control command transmitter 302 and receiver 105 in fig. 3 and col. 8 lines 60-65.

Sarma discloses a method for tagging of products or objects with ID using an open architecture that is flexible and adaptable to change. An electronic product code or EPC standard code with code including manufacturer and product data is included on pg. 6, fig. 1 that is stored in a RF or EMID tag in sec. 4.2 on pp. 6+. Scanned optical UPC tags are discussed on pg. 6 lines 5-6 as known standard ID tags. Use in the home is provided by discussion of UPnP for home in sec. 8.2 on pg. 14 and HAVi protocol for home use in sec. 8.4 on pp. 14+.

Brock discloses a method for tagging of products or objects with ID using an open standard that is simple, extensible and

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efficient. An electronic product^{*} code or EPC standard code with code having manufacturer and product data is included in fig. 9 and sec. 5.4.1 on pp. 19+ that is stored in a barcode, RFID or EMID tag in sec. 2.1 on pg. 6. Scanned optical UPC tags are further discussed in sec. 3.1 on pp. 7+ and sec. 4.12 on pp. 17+ as known in barcode tags that include manufacturer and product information. Use in the home is provided by discussion operating not just at checkout, but in the home in sec. 2 (line 10) on p. 5.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Yang's remote control device 100 and method as taught by Sarma or Brock such that a remote control device 100 receives appliance 160's interface control data from a machine readable tag storing standardized information that functions to identify at least the appliance and manufacturer of the appliance because the tag of Sarma or Brock enables flexible, simple, extensible and efficient retrieval of pertinent information to uniquely identify a plurality of items for use in the home and is suggested by Kitao using a device code with manufacturer and appliance data in a memory tagging an appliance for configuring a remote controller. Further, regarding separate transmission circuit, Yang discloses command transmitter 114 and data

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receiver 114, but if a trigger/interrogation transmitter separate from the command transmitter is required, then such would have been obvious in view of Kitao because Kitao discloses such two transmitters as an alternative configuration in a method for configuring a remote controller. Further, it has been held that to be entitled to weight in method claims, the recited structure limitations therein must affect the method in a manipulative sense, and not to amount to the mere claiming of a use of a particular structure. *Ex parte Pfeiffer*, 1962 C.D. 408 (1961).

Regarding claims 83 and 94, optical UPC labels are disclosed in Sarma or Brock and would have been obvious in view of the optical communication in Yang and/or for compatibility with prior art systems.

Regarding claims 84 and 95, RFID/EMID RF tags are disclosed in Sarma or Brock and would have been obvious for known advantages such as non-line of sight communication and suggested by col. 3 line 40-42 of Yang teaching different control and identification signal mediums such as IR and RF.

Regarding claims 85 and 96, the combination applied above comprises using the data received from an RFID tag to cause select programming code (i.e., select commands) stored in remote control device 100's memory 120 (i.e., a library stored locally

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on remote control device 100) to be mapped to select command keys (see Yang, Col. 3, lines 50-65; Col. 4, lines 6-31 and 52-67; Col. 5, lines 1-32 and 48-67; and Col. 6, lines 1-58).

Regarding claims 86 and 97, Yang teaches that remote control device 100 will automatically attempt to find the programming code in one of the many download mechanisms, starting with appliance 160 itself, and request that the programming code for a particular appliance identifier be downloaded to remote control device 100 when remote control device 100 receives an interface control signal from an appliance 160 that lacks programming code already stored in remote control device 100's memory 120 (see Yang, Col. 8, lines 54-66); thus Yang, as modified by Sarma or Brock, teaches using the data received from an machine readable tag to cause programming code (i.e., select commands) from a library stored within appliance 160 to be downloaded into remote control device 100 and mapped to select command keys (see Yang, Figs. 2A, 2B, 3A, and 3B; Col. 4, lines 6-31 and 52-67; Col. 5, lines 1-32 and 48-67; Col. 6, lines 1-58; and Col. 7, lines 26-34).

Regarding claim 108, the combination applied above further comprises remote control 100 device transmitting an RF signal to initiate receiving data via RF signal from the RFID tags (see the trigger signal in Kitao the corresponds to an interrogation

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signal from an RFID reader.

Regarding claim 25, the combination applied above comprises receiving data from each RFID tag within a radio communication area of remote control device 100 (see Yang, Col. 3, lines 19-29 and Col. 8, lines 10-14; col. 12 line 66 - col. 13 line 37 of Kita; p. 12 of Sarma; and p. 6 of Brock.

7. Claims 87-88, 90, 98-99 and 101 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yang (US 6,133,847) in view of Kitao (US006124804A) and [Sarma or Brock] as applied above, and further in view of Harris et al. (US 2001/0033243).

Regarding claims 87-88, 90, 98-99 and 101, though Yang teaches remote control device 100 automatically attempting to find the programming code in one of the many download mechanisms and request that the programming code for a particular appliance identifier be downloaded to remote control device 100 when remote control device 100 receives an interface control signal from an appliance 160 that lacks programming code already stored in remote control device 100's memory 120 (see Yang, Col. 8, lines 54-66), the combination applied above lacks (1) establishing a connection with the library directly from remote control device 100 (as called for in claims 87 and 97), and (2) establishing a connection with the library by means of an

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intermediate device (as called for in claims 88 and 99), wherein
(3) the intermediate device is a personal computer (as called
for in claims 90 and 101).

In an analogous art, Harris teaches an online remote control configuration system, as shown in Figs. 7 and 8, comprising electronic system 100 of remote control configuration system 10 (hereinafter referred to as "remote control 10") that connects to Internet 130 via computer system 60 (i.e., a personal computer) or directly (see Sections [0050]-[0059]). Harris's method for setting up remote control 10, which has a microprocessor 116 that retrieves instruction from memory in order to control remote control 10 (see Sections [0054]-[0055], [0058], and [0061]), comprises (a) receiving a signal emitted from a remote control corresponding to electronic device 12 and uploading the sampled signal to control station 40 via Internet 130 or entering relevant product information of electronic device 12, such as device type and model, to control station 40 via Internet 130 (see Sections [0047]-[0048] and [0077]-[0084]); and (b) using the sampled signal to cause configuration data (i.e., select commands) from a library stored at control station 40 to be downloaded into remote control 10 and mapped to select command keys (see Sections [0063], [0082], and [0085]-[0086]). As called for in claims 87 and 98, Harris's method includes

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remote control 10 establishing an Internet connection with a library stored at control station 40 directly from remote control 10 (see Fig. 8 and Sections [0059], [0081], and [0085]). As called for in claims 88 and 99, Harris's method also includes remote control 10 establishing an Internet connection with a library stored at control station 40 by means of an intermediate device, wherein the intermediate device is computer system 60 (i.e., a personal computer since remote control 10 is used for controlling home electronic devices), as called for in claims 890 and 101 (see Fig. 7 and Sections [0059], [0081], and [0085]).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the remote control device 100 and method of the combination applied above as taught by Harris because establishing a connection with the library directly from remote control device 100 (as called for in claims 87 and 98) or establishing a connection with the library by means of an intermediate device (as called for in claims 88 and 99), wherein the intermediate device is a personal computer (as called for in claims 90 and 101), allows equipment manufacturers to maintain a centralized library containing the programming codes for each appliance 160, thereby eliminating the need to provide

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programming codes within each appliance 160, which reduces production costs, and facilitating programming code updates.

8. Claims 88-89 and 99-100 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yang (US 6,133,847) in view of Kitao (US006124804A) and [Sarma or Brock] as applied above, and further in view of van Ee et al. (US 6,774,813).

Regarding claims 88-89 and 99-100, though Yang teaches remote control device 100 automatically attempting to find the programming code in one of the many download mechanisms and request that the programming code for a particular appliance identifier be downloaded to remote control device 100 when remote control device 100 receives an interface control signal from an appliance 160 that lacks programming code already stored in remote control device 100's memory 120 (see Yang, Col. 8, lines 54-66), the method of the combination applied above lacks establishing a connection with the library by means of an intermediate device (as called for in claims 88 and 99), wherein the intermediate device is a cable set top box (as called for in claims 89 and 100).

In an analogous art, van Ee's system, as shown in Fig. 1, comprises (1) programmable control device 106 that controls apparatus 102 and 104 (see Col. 5, lines 30-49) and (2)

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programming means 110, which is a set top box, that programs control device 106 and includes Internet connection hardware 114 that connects to remote server 118, which has a database (i.e., library) of a plurality of respective sets of multiple control signals to control a plurality of apparatuses (see Col. 5, lines 50-65). Van Ee's method, as shown in Fig. 2, comprises (a) a user selecting control codes from a database (i.e., library) stored at remote server 118 to be downloaded into control device 106 and mapped to select command keys at step 202 (see Col. 5, lines 50-67; Col. 6, lines 1-23; and Col. 7, lines 35-42); (b) remote server 118 identifying all the sets of control codes corresponding to the user-selected apparatus type/brand combination at step 206 and selecting a particular control code corresponding to a particular function of the apparatus to be controlled and transmitted the control codes to programming means 110 via Internet 116 at step 210 (see Col. 7, lines 43-49); (c) programming means 110 interleaving control codes with associated identifier codes and transmitting the interleaved control signal to control device 106 to program control device 106 at step 214 (see Col. 7, lines 50-54); (d) the user pressing a button on control device 106's user interface 108 to transmit a control code and its associated identified code for each press at step 216 to determine whether the apparatus to be controlled

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responded to the transmitted control code at step 218 (see Col. 7, lines 54-58); (e) if the apparatus responded to a transmitted control code, associating the identifier code associated with the control code that caused the apparatus to respond with its respective control code at step 220, and transmitting the respective control code to remote server 118 via Internet 116 at step 22 (see Col. 7, lines 60-66); (f) remote server 118 identifying the set of control codes in which the respective control code belongs to at step 22 and transmitting the identified set to programming means 110 at step 226 (see Col. 7, lines 66-67 and Col. 8, lines 1-2); and (g) programming means 110 transmitting the identified set to control device 106 to associate the control codes of the identified set with control device 106's multiple user inputs (i.e., to map select commands to select command keys). As called for in claims 88 and 99, van Ee's method comprises control device 106 establishing a connection with remote server 118's library by means of an intermediate device, which is a set top box, as called for in claims 89 and 100 (see Col. 5, lines 50-56; Col. 7, lines 36-67; and Col. 8, lines 1-15).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify remote control device 100 and method of the combination

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applied above as taught by van Ee because establishing a connection with the library by means of an intermediate device (as called for in claims 88 and 99), wherein the intermediate device is a cable set top box (as called for in claims 89 and 100), allows equipment manufacturers to maintain a centralized library containing the programming codes for each appliance 160, thereby eliminating the need to provide programming codes within each appliance 160, which reduces production costs, and facilitating programming code updates.

9. Claims 91-92, and 102-107 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yang (US 6,133,847) in view of Kitao (US006124804A) and [Sarma or Brock] as applied to claim 14 above, and further in view of Gharapetian (US 2002/0101357).

Regarding claims 91-92, and 102-107, the combination applied above comprises using the data received from each of the RFID tags to automatically map select commands to select command keys, as explained in the previous rejections of claim 82, but lacks remote control device 100 simultaneously commanding a plurality of appliances 160 when remote control device 100 is placed in such a mode.

In an analogous art, Gharapetian's method comprises (a) remote control 100 receiving a plurality of address codes (see

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Fig. 5 and Sections [0028]-[0031]); and (b) remote control 100 using the received address codes to cause commands to be mapped to select command keys such that activation of one or more of the select command keys causes remote control 100 to control an appliance that has been associated with each received address code (see Fig. 3 and Sections [0018], [0024]-[0026], and [0028]). Regarding claims 91-92, 102 and 105, Gharapetian teaches that remote control 100 has at least one input device 120 that is dedicated to simultaneously turning on or off electronic devices 102, 104, and 106 (see Sections [0017], [0019], and [0020]). In other words, Gharapetian's method comprises using the address codes of electronic devices 102, 104, and 106 to automatically map select commands to select command keys in a mode of remote control 100 such that a plurality of electronic devices 102, 104, and 106 are simultaneously commandable when remote control 100 is placed into the mode by a user pressing input device 120 that is dedicated to simultaneously turning on or off electronic devices 102, 104, and 106. Once the command sequence/macro is setup, it is stored in memory (par. 0023 of Gharapetian) without again requiring the setup procedure. Obviously, the setup may include user input of the address or input of the address from a tag as suggested by col. 9 lines 16-25 teaching appliance ID input by

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user selection or signal from the appliance. Regarding claims 103-104 and 106-107, it is understood that the pressing of input device 120 that is dedicated to simultaneously turning on or off electronic devices 102, 104, and 106 places remote control 100 in a home theater mode (as called for in claims 103 and 106) or room mode (as called for in claims 104 and 107) since pressing input device 120 simultaneously turns on or off a home theater system comprising amplifier 102, TV 104, DVD player 106, control boxes for room lighting, control boxes for controlling a room's curtains, etc. (see Sections [0006]-[0009], [0017], and [0019]).

Allowable Subject Matter

10. Claims 72-81 are allowed.

Response to Arguments

11. The 112 first paragraph rejection is withdrawn in view of applicant's arguments.

12. Applicant's arguments filed 11-14-2007 regarding the prior art rejections have been fully considered but they are not persuasive.

The argument that the examiner admits that Stefanik, Kaario, Nickum, Yang, Kitao, Sarma and/or Brock do not suggest the claimed invention is incorrect. The examiner makes no such admission.

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In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Although Stefanik does not expressly disclose the smartcard to be an RFID tag, the smartcard includes identification data that can be contactless, suggesting RFID tag. Mapped preferences are not expressly disclosed, but suggested by the smartcard including bookmarks, account names, etc. Suggesting linked or mapped settings.

The argument that Kaario discloses two alternative embodiments of (first) uploading preference information from RFID token or other device, (second) uploading from RFID tag a pointer to a relay location on a network with a URL to an Internet server with a profile *not maintained on an appliance* to overcome problems with the first embodiment is not persuasive because the disclosure of Kaario does not require a second embodiment with a profile *not maintained on an appliance* because par. 0039 of Kaario discloses that mass storage containing the profile may be stored locally or remotely. The entire computer/appliance could be replaced with a server operating

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offsite. Therefore, the profile on the server may be *Maintained on the appliance*, because the server may be the appliances.

Further, the local/remote memory/server of Kaario is sufficient to encompass applicant's claimed "memory of an appliance" that does not limit the location of the memory. Also, par. 0043 of Kaario states that instead of URLs, the location data may be any suitable addressing mechanism permitting the location of data that corresponds to preferences mapped to an individual.

The argument that the profile of Kaario may be moved is not persuasive because this is not precluded by applicant's claims.

The argument that Kaario "teaches directly against" the invention is not persuasive because Kaario does not directly state that the invention does not work.

The argument that Nickum discloses user ID of alphanumeric keys input on a remote and sent to an appliance to determine a level of access does not suggest "at least the claimed elements of using of data received from an RFID tag and forwarded from a universal remote control to retrieve from the memory device of the appliance the one or more appliance operational preferences that have been mapped to the individual represented by the data received from the RFID tag and configuring the appliance according to the retrieved appliance operational preferences" is not persuasive because Nickum discloses using user ID to select

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a user customizable profile (abstract) that correspond to the mapped preferences of applicant's claims. Obviously, the ID may be input by a smartcard or RFID tag instead of manual entry on alphanumeric keys as taught in par. 0066 of Kaario.

The argument that no (individual) reference of record suggests (or discloses or teaches) applicant's claimed invention is not persuasive for the reasons stated above.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Kaario teaches reading an ID from an RFID token or tag to identify a user profile as an alternative to uploading the profile form a smartcard as in Stefanik or manual input as in Nickum. Nickum further teaches inputting user ID into the remote to select a profile on an appliance as an alternative to uploading storing/uploading profile into the remote as in Stefanik. Also, alternative location would have obvious since

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it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70. Further, the references identify a finite number of input mechanisms and/or locations for the problem of selecting a user profile that would have established *prima facie* case obvious in view of the obvious to try rationale in MPEP 2143.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

The argument that by acknowledge admission, Yang has a single data interface that lacks a device of the universal remote dedicated to obtaining data from a machine readable tag is not persuasive because at least col. 3 lines 40-46 of Yang discloses different medium for transmitting control information and reading or downloading ID or programming code. Different medium suggest different or dedicated devices as provided by the

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two separate transmitters in Kitao. Kitao and Yang do not recite the term RFID, but include ID memory attached to the appliance that suggests an RFID. The argument that Yang teaches directly against the invention is not persuasive because Yang does not teach that the invention will not work.

The argument that Kitao, like Yang, discloses an appliance with hardware and software to configure a remote control is not persuasive because the appliance of Kitao includes an ID or device code storage attached to the appliance and suggesting an RFID tag. Further, Kitao includes a trigger transmitter 301 dedicated to requesting or obtaining the ID that is separate from the command transmitter 302.

The argument that Sarma lacks the same limitations discussed above because Sarma "merely" states that "it is likely that [RFID] tags will find new and unexpected uses" is not persuasive because Sarma is not limited to this one statement, rather Sarma discloses using such tags for plug and play in the home (sec. 8.2) and HAVi (home appliance) self configuring device discovery (sec. 8.4) on pages 14-15 that suggests using tag reader and RFID tags for the home appliance remote control of Yang and/or Kitao. The argument that Brock is limited to supply chain and store management processes is not persuasive because clearly discloses use in diverse environments such as

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the home in sec. 2, par. 2 on pg. 5.

The argument that no (individual) reference of record suggests (or discloses or teaches) applicant's claimed invention is not persuasive for the reasons stated above.

The argument that there is no reason to combine the references is not persuasive because reasons are applied in the rejection. For example, Kitao teaches a dedicated ID obtaining transmitter codes for the problem of configuring a remote as an alternative to a single transmitter that also transmits control codes (see MPEP 2143). Sarma and Brock teach using RFID in the home for configuring devices with advantages such as flexible, simple, extensible and efficient retrieval of pertinent information to identify items for use in the home and suggested by Kitao disclosing device code with manufacturer and device data in the a memory tagging an appliance for configuring a remote controller.

The argument that the combination would require extensive redesign of the system of Yang is not persuasive because the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references.

Rather, the test is what the combined teachings of the

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references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

Applicant has not argued the additional prior art rejections of claims 87-92 and 98-107, therefore the rejections are deemed proper.

Conclusion

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

CONTACT INFORMATION

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edwin C. Holloway, III whose telephone number is (571) 272-3058. The

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examiner can normally be reached on M-F from 9:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Zimmerman, can be reached on (571) 272-3059.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

EH
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